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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,964	06/20/2003	Albert Seeley	EMPIR-058AUS	6562
22468	7590	07/02/2008	EXAMINER	
CHAPIN & HUANG L.L.C. WESTBOROUGH OFFICE PARK 1700 WEST PARK DRIVE WESTBOROUGH, MA 01581			TRAN, QUOC DUC	
ART UNIT	PAPER NUMBER		2614	
MAIL DATE	DELIVERY MODE			
07/02/2008	PAPER			

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/600,964	<b>Applicant(s)</b> SEELEY ET AL.
	<b>Examiner</b> Quoc D. Tran	<b>Art Unit</b> 2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 April 2008.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,5-16,20-31 and 35-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,5-16,20-31 and 35-37 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/06)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### *Response to Amendment*

#### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 5-16, 20-31 and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders (2002/0006186) in view of Rancu et al (7,099,438).

Consider claims 1, 16 and 31, Sanders teaches a method, apparatus and computer program medium for generating a test script associated with a virtual telephone caller system used to test a contact center, the method comprising: receiving a test script having one or more test script portions (paragraph 0043 lines 1-10); and associating script parameters at a first time with at least one of the test script and at least one of the test script portions (paragraph 43 lines 11-15), wherein the script parameters are related to a behavior of the test script that allows the test script to provide a functional test or a load test and/or monitoring test (paragraph 0053, as asserted and interpreted by applicant in the remark on 4/18/2008 that Sander's function and load test are distinct tests); wherein the functional test corresponds to a test of the contact center which can be run at a time corresponding to a time of formation of the contact center or to a time of adding new features to the contact center in order to test the general function of the contact center (paragraph 0053 lines 3-6).

Sanders did not suggest wherein the script parameters are related to a behavior of the test script that allows the test script to provide a functional test, load test, and a monitoring test (*i.e.*, *a test script used for functional test, load test, and a monitoring test*) and wherein load test and monitoring test corresponds to test of the contact center which can be run while the contact center is in operation. However, Rancu et al teach a system and method for testing communication system platforms having a test scenario (*i.e.*, test script) that configured to perform functional and conformance testing (*i.e.*, functional test), load and stress testing (load test), endurance and regression testing (*i.e.*, monitoring test) (see col. 1 line 30 – col. 2 line 19; col. 9 lines 60-67; col. 18 lines 41-67) to ensure the system is ready to provide high-level of quality service and to ensure the system continues to provide appropriate service during full service (*i.e., in operation*). Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate the teaching of Rancu et al into view of Sanders to ensure the quality and integrity of the system before and after being placed in service.

Consider claims 5 and 20, Sanders teaches wherein the first time corresponds to a time after the test script is generated (paragraph 0043).

Consider claims 6-7 and 21-22, paragraphs 0027-0042 of Sanders and col. 13 line 50 – col. 17 line 45 of Rancu et al read on *at least one of* the claimed features.

Consider claims 8 and 23, Sanders and Rancu teach associating the test script with two or more test groups at a second time, each test group associated with one of the functional test, the load test, and the monitoring test; and associating group parameters with each of the at least two test groups at the second time (paragraph 0043 of Sanders and col. 9 lines 60-67, col. 19 line 9 – col. 20 line 49 of Rancu et al).

Consider claims 9 and 24, Sanders and Rancu teach wherein the second time corresponds to a time after the test script is generated (paragraph 0043 of Sanders and col. 13 lines 50-67 of Rancu et al.).

Consider claims 10 and 25, Sanders and Rancu teach wherein the group parameters include at least one of a logging value, a threshold value, a channel value, an alerting enable value, an alerting options value, a delay time value, a relative weight value, a duration value, a start calls-per-minute (cpm) value, a stop cpm value, a start time value, a stop time value, a recurrence pattern value, a recurrence pattern value, and a recurrence value (paragraph 0043 lines 13-15; paragraphs 0027-0042 of Sanders and col. 13 line 50 – col. 17 line 45 of Rancu et al.).

Consider claims 11 and 26, Sanders and Rancu teach wherein the logging value corresponds to a binary value that indicates whether logging of data is to be performed, the threshold value corresponds to a value associated with a test of the contact center which is used to determine fail data, the channel value corresponds to a telephone channel used to provide a test to the contact center, the alerting enable value corresponds to a binary value which turns alerting on or off, the alerting options value corresponds to an action to be taken in the event of a test failure, the delay time value corresponds to a delay time before an associated test is performed the relative weight value corresponds to a percentage to time associated with a test script corresponding to the relative amount of time during a test that the test script will run in a group of tests, the duration value corresponds to the total duration of a test, the start cpm value corresponds to the number of calls per time at the beginning of a test, the stop cpm value corresponds to the number of calls per time at the end of a test, the start time value corresponds

to a time at which a test is started, the stop time value corresponds to a time at which a test is ended, the recurrence pattern value corresponds to a gross time interval at which a test is run, and the recurrence value corresponds to a fine time interval at which a test is run (paragraph 0043 lines 13-15; paragraphs 0027-0042 of Sanders and col. 13 line 50 – col. 17 line 45 of Rancu et al).

Consider claims 12 and 27, Sanders and Rancu teach associating one or more additional script parameters with the test script at a third time; and generating the test script having the one or more test script portions (paragraph 0043 of Sanders and col. 9 lines 60-67, col. 19 line 9 – col. 20 line 49 of Rancu et al).

Consider claims 13 and 28, Sanders and Rancu teach wherein the third time corresponds to a time of the generating the test script (paragraph 0043 lines 13-15; paragraphs 0027-0042 of Sanders and col. 13 line 50 – col. 17 line 45 of Rancu et al).

Consider claims 14 and 29, Sanders and Rancu teach wherein the additional script parameters include at least one of a logging value, threshold value, a channel value, an alerting enable value, an alerting options value, a delay time value, a relative weight value, a duration value, a start calls-per-minute (cpm) value, a stop cpm value, a start time value, a stop the value, a recurrence pattern value, and a recurrence value (paragraph 0043 lines 13-15; paragraphs 0027-0042 of Sanders and col. 13 line 50 – col. 17 line 45 of Rancu et al).

Consider claims 15 and 30, Sanders and Rancu teach wherein the logging value corresponds to a binary value that indicates whether logging of data is to be performed, the threshold value corresponds to a value associated with a test of the contact center which is used to determine fail data, the channel value corresponds to a telephone channel used to provide a

test to the contact center, the alerting enable value corresponds to a binary value which turns alerting on or off, the alerting options value corresponds to an action to be taken in the event of a test failure, the delay time value corresponds to a delay time before an associated test is performed, the relative weight value corresponds to a percentage to time associated with a test script corresponding to the relative amount of time during a test that the test script will run in a group of tests, the duration value corresponds to the total duration of a test, the start cpm value corresponds to the number of calls per time at the beginning of a test, the stop cpm value corresponds to the number of calls per time at the end of a test, the start time value corresponds to a time at which a test is started, the stop time value corresponds to a time at which a test is ended, the recurrence pattern value corresponds to a gross time interval at which a test is run, and the recurrence value corresponds to a fine time interval at which a test is run (paragraph 0043 lines 13-15; paragraphs 0027-0042 of Sanders and col. 13 line 50 – col. 17 line 45 of Rancu et al.).

Consider claims 35-37, Rancu et al teach wherein at least one of the script parameters is available for user specification when said test script is to be used, after said test script has been generated (col. 19 line 9 - col. 20 line 49).

***Response to Arguments***

3. Applicant's arguments with respect to claims 1, 5-16, 20-31 and 35-37 have been considered but are moot in view of the new ground(s) of rejection.

4. Any response to this action should be mailed to:

Mail Stop \_\_\_\_ (explanation, e.g., Amendment or After-final, etc.)  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Facsimile responses should be faxed to:

**(571) 273-8300**

Hand-delivered responses should be brought to:

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Quoc Tran** whose telephone number is **(571) 272-7511**. The examiner can normally be reached on M, T, TH and Friday from 8:00 to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Curtis Kuntz**, can be reached on **(571) 272-7499**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Technology Center 2600** whose telephone number is **(571) 272-2600**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Quoc D Tran/  
Primary Examiner, Art Unit 2614  
July 1, 2008